

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 18, 2007

No. 06-61087

Charles R. Fulbruge III
Clerk

RUTH ANN STONE,

Plaintiff-Appellant,

v.

JAMES DAMONS, in his individual capacity; CITY OF CORINTH,
MISSISSIPPI,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
1:05-CV-102

Before JOLLY, DAVIS and WIENER, Circuit Judges.

PER CURIAM:*

Based on our review of the record and after considering the briefs of the parties and the argument of counsel, we affirm the judgment of the district court for the following reasons:

1. We agree with the district court that plaintiff has failed to produce sufficient evidence to allow a jury to determine that Officer Damons sprayed her with pepper spray, arrested her, and pulled her from her vehicle for the purpose

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

of retaliating against her on account of her speech. Rather, the uncontested facts show that plaintiff resisted arrest by locking her car and refusing to obey the officer's order to exit her car and, further resisting arrest, attempted to roll up the window to prevent the officer from unlocking her car door.

2. We also agree with the district court that plaintiff failed to show that Officer Damons used excessive force to effect the arrest under the circumstances presented here. Given her resistance, Officer Damons's use of pepper spray, his pulling her from the vehicle, and his handcuffing her were not unreasonable under the Fourth Amendment.

AFFIRMED.